



February 27, 2003

HOUSE BILL No. 1378

DIGEST OF HB 1378 (Updated February 25, 2003 11:34 PM - DI 108)

Citations Affected: IC 32-30; IC 36-1; IC 36-7; noncode.

Synopsis: Abandoned buildings. Grants neighborhood associations standing to commence civil actions to promote compliance with ordinances when permitted by the enforcing agency. Allows neighborhood associations to acquire dwellings through urban homesteading for rehabilitation and sale. Allows municipalities to recover costs of bringing property into compliance with ordinances. Allows a receiver in possession of property to sell the property. Provides that an order issued by an enforcement authority under the unsafe building law concerning repair and rehabilitation of an unsafe building to bring it into compliance with certain required standards for building condition or maintenance becomes final ten days after notice is given unless a hearing is requested in writing by a person holding: (1) a fee interest; (2) life estate interest; or (3) an equitable interest of a contract purchaser in the unsafe premises. Provides for repair alternatives for unsafe buildings in a receivership. Makes certain other changes.

Effective: Upon passage; July 1, 2003.

Day, Alderman, Moses

January 14, 2003, read first time and referred to Committee on Local Government.
February 26, 2003, amended, reported — Do Pass.

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HB 1378—LS 7340/DI 108+



February 27, 2003

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1378

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 32-30-5-7, AS ADDED BY P.L.2-2002, SECTION
2 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
3 2003]: Sec. 7. The receiver may, under control of the court or the
4 judge:

5 (1) bring and defend actions;
6 (2) take and keep possession of the property;
7 (3) receive rents; ~~and~~
8 (4) collect debts; ~~and~~
9 **(5) sell property;**
10 in the receiver's own name, and generally do other acts respecting the
11 property as the court or judge may authorize.

12 SECTION 2. IC 36-1-6-2, AS AMENDED BY P.L.50-2002,
13 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2003]: Sec. 2. (a) If a condition violating an ordinance of a
15 municipal corporation exists on real property, officers of the municipal
16 corporation may enter onto that property and take appropriate action to
17 bring the property into compliance with the ordinance. However,

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before action to bring compliance may be taken, all persons holding a substantial interest in the property must be given a reasonable opportunity **of at least ten (10) days but not more than sixty (60) days** to bring the property into compliance. If action to bring compliance is taken by the municipal corporation, the expense involved may be made a lien against the property.

(b) ~~If the violation described in subsection (a) is a violation that is located outdoors and does not involve a building or structure,~~ The municipal corporation may ~~also~~ issue a bill to the owner of the real property for the costs incurred by the municipal corporation in bringing the property into compliance with the ordinance, including administrative costs and removal costs.

(c) If the owner of the real property fails to pay a bill issued under subsection (b), the municipal corporation may, **after thirty (30) days**, certify to the county auditor the amount of the bill, plus any additional administrative costs incurred in the certification. The auditor shall place the total amount certified on the tax duplicate for the property affected, and the total amount, including any accrued interest, shall be collected as delinquent taxes are collected and shall be disbursed to the general fund of the municipal corporation.

SECTION 3. IC 36-7-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. As used in this chapter:

"Community organization" means a citizen's group, neighborhood association, neighborhood development corporation, or similar organization that:

- (1) has specific geographic boundaries defined in its bylaws or articles of incorporation and contains at least forty (40) households within those boundaries;**
- (2) is a nonprofit corporation that is representative of at least twenty-five (25) households or twenty percent (20%) of the households in the community, whichever is less;**
- (3) is operated primarily for the promotion of social welfare and general neighborhood improvement and enhancement;**
- (4) has been incorporated for at least two (2) years; and**
- (5) is exempt from taxation under Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code.**

"Department" refers to the executive department authorized by ordinance to administer this chapter. In a consolidated city, this department is the department of metropolitan development, subject to IC 36-3-4-23.

"Enforcement authority" refers to the chief administrative officer of the department, except in a consolidated city. In a consolidated city, the

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1 division of development services is the enforcement authority, subject
2 to IC 36-3-4-23.

3 "Hearing authority" refers to a person or persons designated as such
4 by the executive of a city or county, or by the legislative body of a
5 town. However, in a consolidated city, the director of the department
6 or a person designated by him is the hearing authority. An employee of
7 the enforcement authority may not be designated as the hearing
8 authority.

9 "Substantial property interest" means any right in real property that
10 may be affected in a substantial way by actions authorized by this
11 chapter, including a fee interest, a life estate interest, a future interest,
12 a present possessory interest, or an equitable interest of a contract
13 purchaser. In a consolidated city, the interest reflected by a deed, lease,
14 license, mortgage, land sale contract, or lien is not a substantial
15 property interest unless the deed, lease, license, mortgage, land sale
16 contract, lien, or evidence of it is:

- 17 (1) recorded in the office of the county recorder; or
- 18 (2) the subject of a written information that is received by the
- 19 division of development services and includes the name and
- 20 address of the holder of the interest described.

21 SECTION 4. IC 36-7-9-5 IS AMENDED TO READ AS FOLLOWS
22 [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) The enforcement authority
23 may issue an order requiring action relative to any unsafe premises,
24 including:

- 25 (1) vacating of an unsafe building;
- 26 (2) sealing an unsafe building against intrusion by unauthorized
- 27 persons, in accordance with a uniform standard established by
- 28 ordinance;
- 29 (3) extermination of vermin in and about the unsafe premises;
- 30 (4) removal of trash, debris, or fire hazardous material in and
- 31 about the unsafe premises;
- 32 (5) repair or rehabilitation of an unsafe building to bring it into
- 33 compliance with standards for building condition or maintenance
- 34 required for human habitation, occupancy, or use by a statute, a
- 35 rule adopted under IC 4-22-2, or an ordinance;
- 36 (6) removal of part of an unsafe building;
- 37 (7) removal of an unsafe building; and
- 38 (8) requiring, for an unsafe building that will be sealed for a
- 39 period of more than ninety (90) days:
 - 40 (A) sealing against intrusion by unauthorized persons and the
 - 41 effects of weather;
 - 42 (B) exterior improvements to make the building compatible in



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appearance with other buildings in the area; and

(C) continuing maintenance and upkeep of the building and premises;

in accordance with standards established by ordinance.

Notice of the order must be given under section 25 of this chapter. The ordered action must be reasonably related to the condition of the unsafe premises and the nature and use of nearby properties. The order supersedes any permit relating to building or land use, whether that permit is obtained before or after the order is issued.

(b) The order must contain:

(1) the name of the person to whom the order is issued;

(2) the legal description or address of the unsafe premises that are the subject of the order;

(3) the action that the order requires;

(4) the period of time in which the action is required to be accomplished, measured from the time when the notice of the order is given;

(5) if a hearing is required, a statement indicating the exact time and place of the hearing, and stating that person to whom the order was issued is entitled to appear at the hearing with or without legal counsel, present evidence, cross-examine opposing witnesses, and present arguments;

(6) if a hearing is not required, a statement that an order under subsection (a)(2), (a)(3), ~~or~~ (a)(4), **or (a)(5)** becomes final ten (10) days after notice is given, unless a hearing is requested in writing by a person holding a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises, and the request is delivered to the enforcement authority before the end of the ten (10) day period;

(7) a statement briefly indicating what action can be taken by the enforcement authority if the order is not complied with;

(8) a statement indicating the obligation created by section 27 of this chapter relating to notification of subsequent interest holders and the enforcement authority; and

(9) the name, address, and telephone number of the enforcement authority.

(c) The order must allow a sufficient time, of at least ten (10) days, **but not more than sixty (60) days**, from the time when notice of the order is given, to accomplish the required action. If the order allows more than thirty (30) days to accomplish the action, the order may require that a substantial beginning be made in accomplishing the action within thirty (30) days.

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(d) The order expires two (2) years from the day the notice of the order is given, unless one (1) or more of the following events occurs within that two (2) year period:

(1) A complaint requesting judicial review is filed under section 9 of this chapter.

(2) A contract for action required by the order is let at public bid under section 11 of this chapter.

(3) A civil action is filed under section 17 of this chapter.

SECTION 5. IC 36-7-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) A hearing must be held relative to each order of the enforcement authority, except for an order issued under section 5(a)(2), 5(a)(3), ~~or~~ 5(a)(4), **or 5(a)(5)** of this chapter. An order issued under section 5(a)(2), 5(a)(3), ~~or~~ 5(a)(4), **or 5(a)(5)** of this chapter becomes final ten (10) days after notice is given, unless a hearing is requested before the ten (10) day period ends by a person holding a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises. The hearing shall be conducted by the hearing authority.

(b) The hearing shall be held on a business day no earlier than ten (10) days after notice of the order is given. The hearing authority may, however, take action at the hearing, or before the hearing if a written request is received by the enforcement authority not later than five (5) days after notice is given, to continue the hearing to a business day not later than fourteen (14) days after the hearing date shown on the order. Unless the hearing authority takes action to have the continued hearing held on a definite, specified date, notice of the continued hearing must be given to the person to whom the order was issued at least five (5) days before the continued hearing date, in the manner prescribed by section 25 of this chapter. If the order being considered at the continued hearing was served by publication, it is sufficient to give notice of the continued hearing by publication unless the enforcement authority has received information in writing that enables it to make service under section 25 of this chapter by a method other than publication.

(c) The person to whom the order was issued, any person having a substantial property interest in the unsafe premises that are the subject of the order, or any other person with an interest in the proceedings may appear in person or by counsel at the hearing. Each person appearing at the hearing is entitled to present evidence, cross-examine opposing witnesses, and present arguments.

(d) At the conclusion of any hearing at which a continuance is not granted, the hearing authority may make findings and take action to:



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- (1) affirm the order;
- (2) rescind the order; or
- (3) modify the order, but unless the person to whom the order was issued, or counsel for that person, is present at the hearing, the hearing authority may modify the order in only a manner that makes its terms less stringent.

In addition to affirming the order, in those cases in which the hearing authority finds that there has been a willful failure to comply with the order, the hearing authority may impose a civil penalty in an amount not to exceed ~~one~~ **five** thousand dollars ~~(\$1,000)~~ **(\$5,000)**. **However, if the property poses a substantial threat to the health and well-being of the community, the hearing authority shall impose a civil penalty in an amount not to exceed ten thousand dollars (\$10,000).** The effective date of the civil penalty may be postponed for a reasonable period, after which the hearing authority may order the civil penalty reduced or stricken if the hearing authority is satisfied that all work necessary to fully comply with the order has been done. For purposes of an appeal under section 8 of this chapter or enforcement of an order under section 17 of this chapter, action of the hearing authority is considered final upon the affirmation of the order, even though the hearing authority may retain jurisdiction for the ultimate determination of a fine.

(e) If, at a hearing, a person to whom an order has been issued requests an additional period to accomplish action required by the order, and shows good cause for this request to be granted, the hearing authority may grant the request. However, as a condition for allowing the additional period, the hearing authority may require that the person post a performance bond to be forfeited if the action required by the order is not completed within the additional period.

(f) The board or commission having control over the department shall, at a public hearing, after having given notice of the time and place of the hearing by publication in accordance with IC 5-3-1, adopt a schedule setting forth the maximum amount of performance bonds applicable to various types of ordered action. The hearing authority shall use this schedule to fix the amount of the performance bond required under subsection (e).

(g) The record of the findings made and action taken by the hearing authority at the hearing shall be available to the public upon request. However, neither the enforcement authority nor the hearing authority is required to give any person notice of the findings and action.

(h) A civil penalty under subsection (d) may be collected in the same manner as costs under section 13 of this chapter. The amount of

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the civil penalty that is collected shall be deposited in the unsafe building fund.

SECTION 6. IC 36-7-9-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) The enforcement authority may cause the action required by an order issued under section 5(a)(2), 5(a)(3), ~~or~~ 5(a)(4), **or 5(a)(5)** of this chapter to be performed by a contractor if:

(1) the order has been served, in the manner prescribed by section 25 of this chapter, on each person having a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises that are the subject of the order;

(2) the order has not been complied with;

(3) a hearing was not requested under section 5(b)(6) of this chapter, or, if a hearing was requested, the order was affirmed at the hearing; and

(4) the order is not being reviewed under section 8 of this chapter.

(b) The enforcement authority may cause the action required by an order, other than an order under section 5(a)(2), 5(a)(3), ~~or~~ 5(a)(4), **or 5(a)(5)** of this chapter, to be performed if:

(1) service of an order, in the manner prescribed by section 25 of this chapter, has been made on each person having a substantial property interest in the unsafe premises that are the subject of the order;

(2) the order has been affirmed or modified at the hearing in such a manner that all persons having a substantial property interest in the unsafe premises that are the subject of the order are currently subject to an order requiring the accomplishment of substantially identical action;

(3) the order, as affirmed or modified at the hearing, has not been complied with; and

(4) the order is not being reviewed under section 8 of this chapter.

(c) If action is being taken under this section on the basis of an order that was served by publication, it is sufficient to serve the statement **by publication and indicate** that the enforcement authority intends to perform the work, ~~by publication~~, unless the authority has received information in writing that enables it to make service under section 25 of this chapter by a method other than publication.

SECTION 7. IC 36-7-9-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. **(a)** The department, acting through its enforcement authority, ~~or~~ a person designated by the enforcement authority, **or a community organization** may bring a civil action regarding unsafe premises in the circuit, superior, or

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municipal court of the county. The department is not liable for the costs of such an action. The court may grant one (1) or more of the kinds of relief authorized by sections 18 through 22 of this chapter.

(b) A civil action may not be initiated under this section before the final date of an order under section 5(c) of this chapter requiring:

(1) the completion; or

(2) a substantial beginning toward accomplishing the completion;

of the required remedial action.

(c) A community organization may not initiate a civil action under this section if:

(1) the enforcement authority; or

(2) a person designated by the enforcement authority;

has filed a civil action under this section regarding the unsafe premises.

(d) At least sixty (60) days before commencing a civil action under this section, a community organization must issue a notice by certified mail, return receipt requested, that:

(1) specifies:

(A) the nature of the alleged nuisance;

(B) the date the nuisance was first discovered;

(C) the location on the property where the nuisance is allegedly occurring;

(D) the intent of the community organization to bring a civil action under this section; and

(E) the relief sought in the action; and

(2) is provided to:

(A) the owner of record of the premises;

(B) tenants located on the premises; and

(C) the enforcement authority.

SECTION 8. IC 36-7-9-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. (a) A court acting under section 17 of this chapter may appoint a receiver for the unsafe premises, subject to the following conditions:

(1) The purpose of the receivership must be to take possession of the unsafe premises for a period sufficient to accomplish and pay for repairs and improvements.

(2) The receiver may be a ~~not-for-profit~~ nonprofit corporation the primary purpose of which is the improvement of housing conditions in the county where the unsafe premises are located, or may be any other capable person residing in the county.

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(3) Notwithstanding any prior assignments of the rents and other income of the unsafe premises, the receiver must collect and use that income to repair or remove the defects as required by the order, and may, upon approval by the court, make repairs and improvements in addition to those specified in the order or required by applicable statutes, ordinances, codes, or regulations.

(4) The receiver may make any contracts and do all things necessary to accomplish the repair and improvement of the unsafe premises.

(5) A receiver appointed to sell an unsafe premises may sell the property:

(A) to the highest bidder at auction under the same notice and sale provisions applicable to a foreclosure sale of mechanic's liens or mortgages; or

(B) for fair market value if all persons having a substantial property interest in the unsafe premises agree to the amount and procedure.

The transferee in either a public or private sale must first demonstrate the necessary ability and experience to rehabilitate the premises within a reasonable time to the satisfaction of the receiver.

(6) The court may, after a hearing, authorize the receiver to obtain money needed to accomplish the repairs and improvement by the issuance and sale of notes or receiver's certificates to the receiver or any other person or party bearing interest fixed by the court. The notes or certificates are a first lien on the unsafe premises and the rents and income of the unsafe building. This lien is superior to all other assignments of rents, liens, mortgages, or other encumbrances on the property, except taxes, if, within sixty (60) days following the sale or transfer for value of the notes by the receiver, the holder of the notes files a notice containing the following information in the county recorder's office:

(A) The legal description of the tract of real property on which the unsafe building is located.

(B) The face amount and interest rate of the note or certificate.

(C) The date when the note or certificate was sold or transferred by the receiver.

(D) The date of maturity.

~~(6)~~ (7) Upon payment to the holder of a receiver's note or certificate of the face amount and interest, and upon filing in the recorder's office of a sworn statement of payment, the lien of that note or certificate is released. Upon a default in payment on a

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receiver's note or certificate, the lien may be enforced by proceedings to foreclose in the manner prescribed for mechanic's liens or mortgages. However, the foreclosure proceedings must be commenced within two (2) years after the date of default.

~~(7)~~ **(8)** The receiver is entitled to the same fees, commissions, and necessary expenses as receivers in actions to foreclose mortgages. The fees, commissions, and expenses shall be paid out of the rents and incomes of the property in receivership.

(b) The issuance of an order concerning unsafe premises is not a prerequisite to the appointment of a receiver nor does such an order prevent the appointment of a receiver.

(c) If the enforcement authority or the enforcement authority's designee requests the appointment of a receiver, all persons having a substantial property interest in the unsafe premises shall be made party defendants.

(d) A court, when granting powers and duties to a receiver, shall consider:

- (1) the occupancy of the unsafe premises;**
- (2) the overall condition of the property;**
- (3) the hazard to public health, safety, and welfare;**
- (4) the number of persons having a substantial property interest in the unsafe premises; and**
- (5) other factors the court considers relevant.**

(e) Instead of appointing a receiver to sell or rehabilitate an unsafe premises, the court may permit an owner, a mortgagee, or a person with substantial interest in the unsafe premises to rehabilitate the premises if the owner, mortgagee, or person with substantial interest:

- (1) demonstrates ability to complete the rehabilitation within a reasonable time, but not to exceed sixty (60) days;**
- (2) agrees to comply within a specified schedule for rehabilitation; and**
- (3) posts a bond as security for performance of the required work in compliance with the specified schedule in subdivision (2).**

SECTION 9. IC 36-7-9-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 26. (a) The enforcement authority shall record in the office of the county recorder orders issued under section 5 **5(a)(6), 5(a)(7),** or 6(a) of this chapter. **If the enforcement authority records an order issued under section 5(a)(6), 5(a)(7), or 6(a) of this chapter,** statements of rescission issued under section 6(b) of this chapter, statements that public bids are



1 to be let under section 11 of this chapter, and records of action in which
 2 ~~an~~ **the** order is affirmed, modified, or rescinded taken by the hearing
 3 authority under section 7 of this chapter **shall be recorded**. The
 4 recorder shall charge the fee required under IC 36-2-7-10 for recording
 5 these items.

6 (b) A person who takes an interest in unsafe premises that are the
 7 subject of ~~an~~ **a recorded** order takes that interest, whether or not a
 8 hearing has been held, subject to the terms of the order **and other**
 9 **documents recorded under subsection (a)** and in such a manner that
 10 all of the requirements of sections 10, 11, and 17 through 22 of this
 11 chapter relating to the issuance of orders, service of orders and
 12 affirmation of orders are considered satisfied. If a hearing has been
 13 held, the interest is taken subject to the terms of the order as modified
 14 at the hearing, **in other documents recorded under subsection(a)**,
 15 and in such a manner that all of the requirements of sections 10, 11,
 16 and 17 through 22 of this chapter relating to the issuance of orders,
 17 service of orders, and modification of orders at hearing are considered
 18 satisfied.

19 (c) A person who takes an interest in unsafe premises that are the
 20 subject of a **recorded** statement that public bids are to be let takes the
 21 interest subject to the terms of the statement and in such a manner that
 22 the notice of the statement required by section 11 of this chapter is
 23 considered given to the person.

24 SECTION 10. IC 36-7-15.1-12 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) If no appeal is
 26 taken, or if an appeal is taken but is unsuccessful, the commission shall
 27 proceed with the proposed project, to the extent that money is available
 28 for that purpose.

29 (b) The commission shall first approve and adopt a list of the real
 30 property and interests in real property to be acquired, and the price to
 31 be offered to the owner of each parcel or interests. The prices to be
 32 offered may not exceed the average of two (2) independent appraisals
 33 of fair market value procured by the commission, except that appraisals
 34 are not required in transactions with other governmental agencies.
 35 However, if the real property is less than five (5) acres in size and the
 36 fair market value of the real property or interest has been appraised by
 37 one (1) independent appraiser at less than ten thousand dollars
 38 (\$10,000), the second appraisal may be made by a qualified employee
 39 of the department. The prices indicated on the list may not be exceeded
 40 unless specifically authorized by the commission under section 7 of
 41 this chapter or ordered by a court in condemnation proceedings. The
 42 commission may except from acquisition any real property in the area



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1 if it finds that such an acquisition is not necessary under the
 2 redevelopment plan. Appraisals made under this section are for the
 3 information of the commission and are not open for public inspection.

4 (c) Negotiations for the purchase of property may be carried on
 5 directly by the commission, by its employees, or by expert negotiators
 6 employed for that purpose. The commission shall adopt a standard
 7 form of option for use in negotiations, but no option, contract, or
 8 understanding relative to the purchase of real property is binding on the
 9 commission until approved and accepted by the commission in writing.
 10 The commission may authorize the payment of a nominal fee to bind
 11 an option, and as a part of the consideration for conveyance may agree
 12 to pay the expense incident to the conveyance and determination of the
 13 title of the property. Payment for the property purchased shall be made
 14 when and as directed by the commission, but only on delivery of proper
 15 instruments conveying the title or interest of the owner to "City of
 16 _____ for the use and benefit of its Department of Metropolitan
 17 Development".

18 (d) Notwithstanding subsections (a) through (c), the commission
 19 may, before the time referred to in this section, accept gifts of property
 20 needed for the redevelopment of blighted, deteriorated, or deteriorating
 21 areas. The commission may, before the time referred to in this section,
 22 take options on or contract for the acquisition of property needed for
 23 the redevelopment of blighted, deteriorated, or deteriorating areas if the
 24 options and contracts are not binding on the commission or the
 25 redevelopment district until the time referred to in this section and until
 26 money is available to pay the consideration set out in the options or
 27 contracts.

28 (e) Section 15(a) through 15(h) of this chapter does not apply to
 29 exchanges of real property (or interests in real property) in connection
 30 with the acquisition of real property (or interests in real property) under
 31 this section. In acquiring real property (or interests in real property)
 32 under this section the commission may, as an alternative to offering
 33 payment of money as specified in subsection (b), offer for the real
 34 property (or interest in real property) that the commission desires to
 35 acquire:

- 36 (1) exchange of real property or interests in real property owned
- 37 by the redevelopment district;
- 38 (2) exchange of real property or interests in real property owned
- 39 by the redevelopment district, along with the payment of money
- 40 by the commission; or
- 41 (3) exchange of real property or interests in real property owned
- 42 by the redevelopment district along with the payment of money by



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1 the owner of the real property or interests in real property that the
 2 commission desires to acquire.

3 The commission shall have the fair market value of the real property or
 4 interests in real property owned by the redevelopment district appraised
 5 as specified in section 15(b) of this chapter. The appraisers may not
 6 also appraise the value of the real property or interests in real property
 7 to be acquired by the redevelopment district. The commission shall
 8 establish the nature of the offer to the owner based on the difference
 9 between the average of the two (2) appraisals of the fair market value
 10 of the real property or interests in real property to be acquired by the
 11 commission and the average of the appraisals of fair market value of
 12 the real property or interests in real property to be exchanged by the
 13 commission.

14 SECTION 11. IC 36-7-15.1-15.1, AS AMENDED BY P.L.86-1999,
 15 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2003]: Sec. 15.1. (a) As used in this section, "qualifying
 17 corporation" refers to a nonprofit corporation or neighborhood
 18 development corporation that meets the requirements of subsection
 19 (b)(1) and the criteria established by the county fiscal body under
 20 subsection (i).

21 (b) The commission may sell or grant at no cost title to real property
 22 to a nonprofit corporation or neighborhood development corporation
 23 for the purpose of providing low or moderate income housing or other
 24 development that will benefit or serve low or moderate income families
 25 if the following requirements are met:

26 (1) The nonprofit corporation or neighborhood development
 27 corporation has, as a major corporate purpose and function, the
 28 provision of housing for low and moderate income families within
 29 the geographic area in which the parcel of property is located.

30 (2) The qualifying corporation agrees to cause development that
 31 will serve or benefit low or moderate income families on the
 32 parcel of property within a specified period, which may not
 33 exceed five (5) years from the date of the sale or grant.

34 (3) The qualifying corporation, if the qualifying corporation is a
 35 neighborhood development corporation, agrees that the qualifying
 36 corporation and each applicant, recipient, contractor, or
 37 subcontractor undertaking work in connection with the real
 38 property will:

39 (A) use lower income project area residents as trainees and as
 40 employees; and

41 (B) contract for work with business concerns located in the
 42 project area or owned in substantial part by persons residing

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- 1 in the project area;
 2 to the greatest extent feasible, as determined under the standards
 3 specified in 24 CFR 135.
 4 (4) The county fiscal body has determined that the corporation
 5 meets the criteria established under subsection (i).
 6 (5) The qualifying corporation agrees to rehabilitate or otherwise
 7 develop the property in a manner that is similar to and consistent
 8 with the use of the other properties in the area served by the
 9 qualifying corporation.
 10 (c) To carry out the purposes of this section, the commission may
 11 secure from the county under IC 6-1.1-25-9(e) parcels of property
 12 acquired by the county under IC 6-1.1-24 and IC 6-1.1-25.
 13 (d) Before offering any parcel of property for sale or grant, the fair
 14 market value of the parcel of property must be determined. ~~by an~~
 15 ~~appraiser, who may be an~~ **The fair market value may be determined**
 16 **by an appraisal made by a qualified** employee of the department.
 17 However, if ~~the qualified employee of the department determines~~
 18 ~~that:~~
 19 (1) the property:
 20 (A) is less than five (5) acres in size; and
 21 (B) has a fair market value that is less than ten thousand
 22 dollars (\$10,000); or
 23 (2) if the commission has obtained the parcel in the manner
 24 described in subsection (c);
 25 an appraisal is not required. An appraisal under this subsection is solely
 26 for the information of the commission and is not available for public
 27 inspection.
 28 (e) The commission must decide whether the commission will sell
 29 or grant the parcel of real property at a public meeting. In making this
 30 decision, the commission shall give substantial weight to the extent to
 31 which and the terms under which the qualifying corporation will cause
 32 development to serve or benefit families of low or moderate income. If
 33 more than one (1) qualifying corporation is interested in acquiring a
 34 parcel of real property, the commission shall conduct a hearing at
 35 which a representative of each corporation may state the reasons why
 36 the commission should sell or grant the parcel to that corporation.
 37 (f) Before conducting a hearing under subsection (e), the
 38 commission shall publish a notice in accordance with IC 5-3-1
 39 indicating that at a designated time the commission will consider
 40 selling or granting the parcel of real property under this section. The
 41 notice must state the general location of the property, including the
 42 street address if any, or a common description of the property other



1 than the legal description.

2 (g) If the county agrees to transfer a parcel of real property to the
3 commission to be sold or granted under this section, the commission
4 may conduct a hearing to sell or grant the parcel to a qualifying
5 corporation even though the parcel has not yet been transferred to the
6 commission. After the hearing, the commission may adopt a resolution
7 directing the department to take appropriate steps necessary to acquire
8 the parcel from the county and to transfer the parcel to the qualifying
9 corporation.

10 (h) A conveyance of property to a qualifying corporation under this
11 section shall be made in accordance with section 15(i) of this chapter.

12 (i) The county fiscal body shall establish criteria for determining the
13 eligibility of nonprofit corporations and neighborhood development
14 corporations for sales or grants of real property under this section. A
15 nonprofit corporation or neighborhood development corporation may
16 apply to the county fiscal body for a determination concerning the
17 corporation's compliance with the criteria established under this
18 subsection.

19 SECTION 12. IC 36-7-17-2 IS AMENDED TO READ AS
20 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. The fiscal body of a
21 unit may by ordinance designate an agency or quasi-public corporation,
22 or establish a new agency, to administer an urban homesteading
23 program under which family dwellings for one (1) through four (4)
24 families may be conveyed to individuals or families, who must occupy
25 and rehabilitate the dwellings, **and community organizations that**
26 **must rehabilitate the dwellings and offer them for sale.**

27 SECTION 13. IC 36-7-17-5 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) A person **or**
29 **community organization** may apply for the program by completing a
30 bid application.

31 (b) **The following** ~~An applicant is~~ **applicants are** qualified and
32 shall be approved to receive real property offered under this chapter:
33 ~~if he:~~

34 (1) **A person who:**

35 (A) is at least eighteen (18) years of age;

36 (2) ~~(B)~~ **(B)** possesses the financial resources to support a loan, the
37 necessary skills to rehabilitate the property, or a combination
38 of both; and

39 (3) ~~(C)~~ **(C)** has, including immediate family, not previously
40 participated in the program.

41 (2) **A community organization as described in IC 36-7-9-2.**

42 (c) Approved applicants are entitled to receive a list of all properties



owned by the unit that are available under this chapter.

(d) Approved applicants may apply for each dwelling in which they are interested. A drawing shall be held to determine those ~~persons~~ **applicants** receiving the dwellings. **Persons applying under this chapter shall receive priority over community organizations if both indicate an interest in the same dwelling.** Each approved ~~applicant person~~ and his or her immediate family may receive only one (1) dwelling in the drawing. **Each approved community organization may receive as many dwellings as the agency considers proper.**

SECTION 14. IC 36-7-17-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. The conveyance of a dwelling to an applicant under this chapter shall be made in return for a fee of one dollar (\$1) or more and the execution by the applicant of an agreement with the following minimum conditions:

(1) The applicant must:

(A) if a person, reside in the dwelling as ~~his~~ **the person's** principal place of residence for a period of not less than three (3) years; **or**

(B) if a community organization, agree to list the dwelling for sale within twelve (12) months after possession.

(2) The applicant must bring the residence up to a minimum code standard, including building, plumbing, electrical, and fire code standards, within twelve (12) months after possession, or before possession if required under subdivision (4).

(3) The applicant must carry fire and liability insurance on the dwelling at all times.

(4) The applicant must comply with any additional terms, conditions, and requirements that the agency may impose to assure that the purposes of this chapter are carried out. This may include the requirement that the dwelling be rehabilitated to minimum building code standards before possession.

SECTION 15. IC 36-7-17-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) The agency shall convey the real property acquired for the purposes of this chapter to those persons **or community organizations** qualified under section 6 of this chapter by using the methods prescribed by subsection (b), ~~or subsection (c), or (d).~~

(b) The real property may be conveyed by a conditional sales contract, with title to remain in the agency for a period of at least one (1) year.

(c) The title to real property may be conveyed to ~~the purchaser a~~



person purchasing the property as a determinable fee, with the language of the granting clause in the deed of conveyance to include the language "The property is conveyed on the conditions that the purchaser:

(1) will reside in the dwelling as his principal place of residence for a period of not less than three (3) years;

(2) will bring the residence up to minimum code standards in twelve (12) months;

(3) will carry adequate fire and liability insurance on the dwelling at all times; and

(4) will comply with such additional terms, conditions, and requirements as the agency requires before _____ (date of the deed) under IC 36-7-17".

(d) The title to real property may be conveyed to a community organization purchasing the property as a determinable fee, with the language of the granting clause in the deed of conveyance to include the language: "The property is conveyed on the conditions that the purchaser:

(1) will list the property for sale within twelve (12) months of taking possession;

(2) will bring the residence up to minimum code standards in twelve (12) months;

(3) will carry adequate fire and liability insurance on the dwelling at all times; and

(4) will comply with any additional terms, conditions, and requirements as the agency requires before _____ (date of the deed) under IC 36-7-17".

SECTION 16. IC 36-7-17-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. **(a) When, after the purchaser purchase, a person** has resided in the dwelling for the required three (3) year period, brought the property into compliance with the required code standards, and otherwise complied with the terms of ~~his~~ **the person's** agreement, the agency shall convey to ~~him~~ **the person** a fee simple title to the property.

(b) When, after purchase, a community organization has brought the property into compliance with the required code standards, documented its intent to list the property for sale, and otherwise complied with the terms of its agreement, the agency shall convey to it a fee simple title to the property.

SECTION 17. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding IC 36-1-6 and IC 36-7-9, a municipal corporation under IC 36-1-6-2, as amended by this act, and an enforcement**



1 authority under IC 36-7-9-2, as amended by this act, may establish
 2 and maintain a registry of properties within its jurisdiction known
 3 to be:

- 4 (1) in a condition that violates local ordinances; and
 5 (2) eligible for enforcement procedures under IC 36-1-6-2 and
 6 IC 36-7-9-5, both as amended by this act.

7 (b) The information in the registry shall be made available to
 8 the public under IC 5-14-3 for inspection and copying during
 9 ordinary business hours.

10 (c) The owners of property recorded in the registry shall
 11 provide:

- 12 (1) either:
 13 (A) their mailing address; or
 14 (B) the name and mailing address of their agent;
 15 for the purpose of service of process; and
 16 (2) the name and address of the insurance carrier providing
 17 insurance coverage on the property.

18 (d) The registered owner of the property must notify the
 19 enforcement authority of a change in ownership.

20 (e) Beginning July 1, 2003, new enforcement activities made
 21 possible under IC 36-1-6 or IC 36-7-9 by the amendments in this
 22 act may not be initiated by a municipal corporation or enforcement
 23 authority that affect a property recorded in a registry until
 24 October 1, 2003.

25 (f) This SECTION expires on October 1, 2003.

26 SECTION 18. [EFFECTIVE UPON PASSAGE] This act does not
 27 affect:

- 28 (1) rights or liabilities accrued;
 29 (2) penalties incurred;
 30 (3) crimes committed; or
 31 (4) proceedings begun;

32 before the effective date of this act. Those rights, liabilities,
 33 penalties, crimes, and proceedings continue and shall be imposed
 34 and enforced under prior law as if this act had not been enacted.

35 SECTION 19. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1378, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 29, delete "member".

Page 2, line 29, delete "comprised" and insert **"that is representative"**.

Page 8, line 4, delete "In any action filed under this chapter, a court may award" and insert **"A civil action may not be initiated under this section before the final date of an order under section 5(c) of this chapter requiring:**

(1) the completion; or

(2) a substantial beginning toward accomplishing the completion;

of the required remedial action.

(c) A community organization may not initiate a civil action under this section if:

(1) the enforcement authority; or

(2) a person designated by the enforcement authority;

has filed a civil action under this section regarding the unsafe premises.

(d) At least sixty (60) days before commencing a civil action under this section, a community organization must issue a notice by certified mail, return receipt requested, that:

(1) specifies:

(A) the nature of the alleged nuisance;

(B) the date the nuisance was first discovered;

(C) the location on the property where the nuisance is allegedly occurring;

(D) the intent of the community organization to bring a civil action under this section; and

(E) the relief sought in the action; and

(2) is provided to:

(A) the owner of record of the premises;

(B) tenants located on the premises; and

(C) the enforcement authority."

Page 8, delete lines 5 through 9.

Page 10, line 17, strike "5" and insert **"(5)(a)(6), 5(a)(7),"**.

Page 10, line 18, delete "5" and insert **"(5)(a)(6), 5(a)(7),"**.

Page 11, line 12, delete "determined by a qualified employee".

Page 11, delete lines 13 through 17.

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Page 11, line 18, delete "(2)".

Page 11, run in lines 12 through 18.

Page 17, line 27, delete "shall" and insert "**may**".

and when so amended that said bill do pass.

(Reference is to HB 1378 as introduced.)

MOSES, Chair

Committee Vote: yeas 12, nays 1.

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